

Exhibit AA. Merger, recorded 08/11/2003, at Reel/Frame 013862/0618, in which this application and the cited Pare and Hoffman patents are all listed on page 2 of the Notice of Recordation. By this merger, Indivos Corporation, a standalone company, became (new) Indivos Corporation, a wholly-owned subsidiary of Solidus Networks, Inc. (Note: new Indivos later granted a security interest to Bank of New York--see Exhibit FF below.)

Exhibit BB. Annulment of Assignment recorded 09/16/2003 at Reel/Frame 013986/0001. The recorded Annulment of Assignment document includes 97 pages, itemized and described as follows:

1) STATEMENT THAT NED HOFFMAN LACKED AUTHORITY TO EXECUTE DOCUMENTS ON BEHALF OF INDIVOS CORPORATION by the undersigned. This STATEMENT in turn references:

2) DECLARATION OF ROBERT GOLDBERG in which the President of Indivos at the time sets forth facts showing that Mr. Hoffman lacked any authority to assign patents and patent applications of Indivos Corporation, under that name or its prior names, SmartTouch, Inc. and later Veristar Corporation, to Hoffman's company Excel Innovations.

3) DECLARATION OF ALEXANDER C. JOHNSON, JR. which sets forth further facts showing that Mr. Hoffman had no authority to assign Indivos Corporation patents and applications to Excel or any other company.

Mr. Goldberg's and Mr. Johnsons' Declarations include:

- Exhibit A (pages 1-25), a true copy of a Change of Name from SmartTouch, Inc. to Veristar Corporation, recorded 07/24/2001 at Reel/Frame 012010/0454, which lists Hoffman et al. U.S. 5,613,012 on page 1; Pare et al. U.S. 5,870,723 on page 2; and the provisional application Serial No. 60/208,680 from which this application claims priority on page 2.

(NOTE: This application (Serial No. 09/871,241) had not yet been filed. The provisional application 60/208,680 (and any patent based on it) was assigned by the inventors to SmartTouch, Inc. by assignment recorded 01/16/2001 at Reel/Frame 011723/0657, a true copy of which is attached below as Exhibit DD. Based on the assignment to SmartTouch, Inc. and subsequent name change to Veristar Corporation, this application was published as US2002/0019811 A1 showing Veristar Corporation as the Assignee.)

- Exhibit B, Change of Name from Veristar Corporation to Indivos Corporation, recorded 10/15/2001 at Reel/Frame 012263/0077. U.S. 5,613,012 is listed on page 1, U.S. 5,870,723 is listed on page 2, and Serial No. 60/208,680 is on page 2.
- Exhibit C--unauthorized assignment by Ned Hoffman purporting to assign various patents including U.S. 5,870,723 from Indivos Corporation to Excel Innovations, Inc., recorded 02/11/2003 at Reel/Frame 13417/0941 (4 pages). U.S. 5,613,012 was listed in the assignment but omitted from the recordal. On page 4 of this recorded document, Ned Hoffman falsely signed as "President Excel for Indivos Corporation" on 3 February 2003. As explained in the Goldberg Declaration, Ned Hoffman had no authority to act on behalf of Indivos Corporation after June 2000.
- Exhibit D1 consists of an unauthorized assignment of various Indivos patent applications (omitting the present application) to Excel Innovations, Inc. executed by Ned Hoffman falsely signing as President Excel for Indivos Corporation" recorded on 03/17/2003 at Reel/Frame 013490/0327 (3 pages) and 03/07/2003 at Reel/Frame 013462/0835 (2 pages).
- Exhibit D2 is another unauthorized assignment signed by Ned Hoffman on page 4 as "President, Excel Innovations, Inc." This assignment, recorded on 03/26/2003 at Reel/Frame 013516/0295 (4 pages), purports to assign to Aviv, LLC various Indivos patents and applications, including U.S. 5,870,723, but omitting U.S. 5,613,012 and this application. The assignment itself lists only applications, not issued patents, and not the present application.
- Exhibit E is another unauthorized assignment signed by Ned Hoffman claiming to be "President Excel for Indivos Corporation, recorded 02/19/2003 at Reel/Frame 013429/0325 (4 pages), purporting to assign to Excel Innovations, Inc. various Indivos patents and applications, including U.S. 5,870,723, and U.S. 5,613,012. The present application is omitted altogether.
- Exhibit F is a Power of Attorney signed by Ned Hoffman, again claiming to be "President Excel for Indivos Corporation," and recorded at Reel/Frame 0139429/0329 (22 pages). It contains the same list of properties listed in Exhibit E. This document also includes an Agreement, between an Omnilock Incorporated and SmartTouch, LLC, dated 5/08/95. Also included are various

corporate documents for Omnilock, Inc. and Excel Innovations, Inc.

- Exhibits G and H are a Power to Inspect Serial No. 10/241,374 signed 3/24/03 by Ned Hoffman as President, Excel Innovations, Inc. and Manager, Aviv LLC and a patent abstract for that application showing the series of records:

Indivos to Excel (03/07/2003)

Excel to Aviv LLC (03/26/2003)

Indivos merger (08/11/2003)

(again) Indivos to Excel (09/03/2003).

- Exhibit I is a spreadsheet, showing by the undersigned's Attorney Docket Nos., the Serial Number, filing date, patent number and issue date of all of the Indivos patents and applications through 8/22/2003. Subsequent columns list the Inventor's Assignment for each case by Reel/Frame and Date, the Assignee from the inventors in each case, and subsequent assignments in turn from:

SmartTouch, LLC to SmartTouch, Inc.

(name change) to Veristar Corporation

(name change) to Indivos Corporation

(merger) to (new) Indivos Corporation

all with pertinent Reel/Frame and Date of records.

Exhibit CC. Judgment of Patent Ownership recorded 01/05/2006 at Reel/Frame 016976/0131, against the present application (page 2) as well as U.S. 5,870,723 (page 2) and U.S. 5,613,012 (page 3) and all the other patents and applications affected by the spurious assignments to Excel Innovations, Inc.

In its order shown in this recordal, the U.S. District Court for the Northern District of California, in the Case No. C-03-3125 MMC, *Excel Innovations Inc. v. Indivos Corporation and Solidus Networks, Inc.*, denied Excel's motion and granted the motion of Indivos Corporation and its parent Solidus Networks, Inc. for partial summary judgment on the issue of ownership of all 15 patents at issue in the action.

Exhibit FF.--see Note above under Exhibit AA. Grant of Patent Security Interest to The Bank of New York from Indivos Corporation recorded on 02/16/2006 under Reel/Frame 017176/0427 (31 pages). Attached in lieu of the original recorded document which the undersigned does not have is a Patent Assignment Assignor Details which shows under

Assignment: 6 this particular conveyance which is listed against what appear to be all of the US patents and applications of Indivos Corporation, including 5,613,012 and 5,870,723 and this application 09/871,241. All of these properties remain in common ownership.

2. The Examiner requests the applicants/assignees to provide the actual names of assignees for each of the three applications that were assigned on the priority date (May 31, 2000) and the filing date (May 30, 2001) of this present application Serial No. 09/871,241.

Exhibit I referenced above shows the applicants/assignees of the two patents (U.S. 5,613,012 and 5,870,723) and the present application as of various recordal dates.

Referring to page 1 of 4, in the lines identified by Attorneys Docket Nos. 8514-5 and 8514-12, both patents were originally assigned to SmartTouch by the inventors on various dates prior to 1998. Those patents (and others) were later assigned to SmartTouch, Inc. by assignment recorded 10/22/1998 as shown on page 2 of 4. The present application, listed on page 1 of 4 in the row identified with Docket No. 8514-50, was initially assigned to SmartTouch, Inc. by assignment executed 06/08/2000 (8 days after filing) and recorded 1/16/2001. Therefore, as of the priority date of this present application (May 31, 2000) both patents and this application were commonly owned by SmartTouch, Inc. The '012 and '723 patents and this application continued in common ownership through the regular application filing date of this application on May 30, 2001, and continuing through the name change to Veristar Corporation, recorded 07/24/2001, the name change to Indivos Corporation, recorded 10/15/2001 and the merger into Indivos Corporation (new) recorded 08/11/2003, as shown on page 3 of 4.

3. The Examiner requests the applicants to disclose all patents and patent publications/applications in which any one of the three present inventors (Lapsley, Gioia or Kleeman) are also inventors/coinventors.

Attached as Exhibit EE are:

- a. listing from the undersigned's docketing database of US issued patents and pending applications owned Indivos Corporation wherein Lapsley, Gioia or Kleeman are listed as inventors.
- b. USPTO listing of US patents wherein Philip Dean Lapsley is listed as an inventor. We were unable to find issued patents listed for either Gioia or Kleeman.
- c. USPTO listing of published applications wherein Philip Lapsley is listed as an inventor. These publications are for patents listed in b. above and US20020019811 for the instant application.
- d. USPTO listing of published application for Philip Gioia US20020019811 for the instant application.
- e. USPTO listing of published application for Michael Kleeman US20020019811 for the instant application and an unrelated application US2002/0052868 A1.

The undersigned believes that applicant has fully responded to the Examiner's request for information. If any questions remain, the Examiner is requested to call the undersigned. This application should now be in condition for allowance.

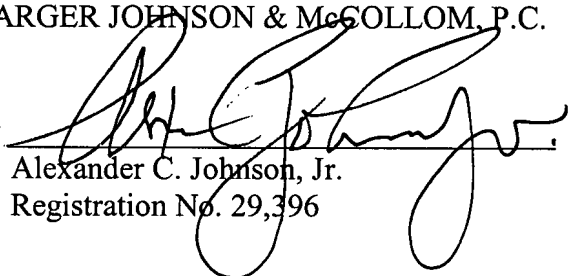
Respectfully submitted,

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